

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
(HUD)

Plaintiff

v.

JOHN DOE AND RICHARD ROE as
those unknown persons who may be
the holders of the lost mortgage
note or have any interest in
this proceeding,
Defendants

CIVIL NO. 3:11-cv-01600-CCC

ACTION FOR CANCELLATION OF
LOST NOTE

**(Agustín Herrera López and
Ivonne Colón de Herrera)**

JUDGMENT BY DEFAULT

WHEREAS, the defendants were duly served by publication pursuant to order of this Court and notice published in the newspaper on November 24, 30, and December 7, 14, 21, & 28 per the verified statement filed with the Clerk of this Court;

WHEREAS, the requirements of Rule 4 of the Rules of Civil Procedure of Puerto Rico and Article 82 of the Mortgage Law have been met (P.R. Laws Tit. 30 §156);

WHEREAS, according to 28 U.S.C. §1655, the defendants were ordered to appear and answer the Complaint and it appearing to the Court that none of the defendants have appeared or answered the Complaint, after due deliberation and consideration, the Court makes the following:

United States v. John Doe and Richard Roe
(Agustín Herrera López & Ivonne Colón de Herrera)
Civil No. 3:11-cv-01600-CCC
Page 2

FINDINGS OF FACTS

1. On or before April 28, 1970, Agustín Herrera López and his wife Ivonne Colón de Herrera, received from Banco Popular de Puerto Rico, a loan in the amount of \$18,600.00 on the property described at paragraph 3 below.

2. In evidence of the money lent by Banco Popular de Puerto Rico, Agustín Herrera López and his wife Ivonne Colón de Herrera executed a promissory note dated April 28, 1970 in the amount of \$18,600.00 with interest rate of 8 1/2%, payable to Banco Popular de Puerto Rico.

3. To secure the payment of said promissory note Agustín Herrera López and his wife Ivonne Colón de Herrera executed a Mortgage in favor of Banco Popular de Puerto Rico, on April 28, 1970, by Mortgage Deed No. 154 before Notary Public Carlos Santos Correa, over the following property:

URBAN: Lot marked with number Thirty Six (36) of Block U in the inscription plan of Jardines del Caribe Development, Second Stage, at Canas, Quebrada Limón and Pastillo wards of the Municipality of Ponce, Puerto Rico, with a superficial area of Three Hundred Twenty Two point Seven Hundred fifty Three square meters (322.753) bounding on the NORTH, in Thirteen point Five Hundred Seventy Six (13.576) meters with Street Number Twenty

United States v. John Doe and Richard Roe
(Agustín Herrera López & Ivonne Colón de Herrera)
Civil No. 3:11-cv-01600-CCC
Page 3

Seven (27); on the SOUTH, in Twelve meters point Two Hundred Forty (12.240) meters with lots twenty seven (27) and twenty eight (28) of Block U; on the EAST, in Twenty Five (25) meters with lot number Thirty Five (35) of Block U; on the WEST, in Twenty Five (25) Meters with lot Seven (7) of Block U.

On this lot a reinforced concrete house has been built to be used as a family residence.

4. The aforementioned Mortgage Deed executed in favor of Banco Popular de Puerto Rico was duly recorded in the Registry of Property of Ponce, at page 75 of Volume 423 of Ponce Section II, property number 17809, First Inscription, which is in full force and effect.

5. In the year 1977, this loan was assigned by Banco Popular de Puerto Rico to the Secretary of the United States Department of Housing and Urban Development under the Assignment Program.

6. The original promissory note of \$18,600.00 described in paragraph 2 above, while in possession of and under the custody of the Department of Housing and Urban Development, was apparently lost, misplaced or destroyed and although a thorough search has been made, it has been unable to find or locate said note.

7. The indebtedness assumed by Agustín Herrera López and his wife Ivonne Colón de Herrera, to the plaintiff, United States of America, has been paid in full.

United States v. John Doe and Richard Roe
(Agustín Herrera López & Ivonne Colón de Herrera)
Civil No. 3:11-cv-01600-CCC
Page 4

CONCLUSIONS OF LAW

Articles 132 and 134 of the Mortgage Law of 1979, provides that when a mortgage note has been lost, the mortgage may be canceled by the Registrar of Property only by judicial decree obtained by a court of competent jurisdiction in a civil proceeding such as authorized by the Code of Civil Procedure of Puerto Rico, in which the court decrees that the mortgage obligation is extinguished. (P.R. Laws Tit. 30 §§ 2456 and 2458).

WHEREFORE, IT IS ORDERED THAT

(1) Judgment be entered against the defendants herein declaring that the aforementioned mortgage obligation is extinguished.

(2) The promissory note in the amount of \$18,600.00 of principal with interest rate of 8 1/2% per annum, on the unpaid balance executed by Agustín Herrera López and Ivonne Colón de Herrera, the possession of whomsoever it may now be or become in the future, is hereby declared null and void, and therefore canceled.

(3) The Registrar of the Property of Ponce, Section II, Puerto Rico, cancel and nullify the real estate voluntary

United States v. John Doe and Richard Roe
(Agustín Herrera López & Ivonne Colón de Herrera)
Civil No. 3:11-cv-01600-CCC
Page 5

mortgage executed by Agustín Herrera López and Ivonne Colón de Herrera, to secure the payment of the promissory note above described constituted by the terms of Mortgage Deed No. 154 before Notary Public Carlos Santos Correa on April 28, 1970, and which was recorded in the Registry of Property of Ponce, at page 75 of Volume 423 of Ponce Section II, property number 17809, First Inscription.

San Juan, Puerto Rico this ^{30th} day of ^{April}, 2012.


UNITED STATES DISTRICT JUDGE